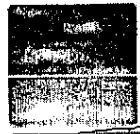


(K-240



Fw: EPA correspondence

Leah Butler to: Michele Benson, Kim Muratore, Dawn
Richmond

07/28/2009 04:39 PM

Leah Butler
EPA Region 9
75 Hawthorne Street, SFD-6-2
San Francisco, CA 94105
(415) 972-3199
butler.leah@epa.gov

----- Forwarded by Leah Butler/R9/USEPA/US on 07/28/2009 04:38 PM -----

From: "Joseph Fahey" <jpfahey@oxide-ores.com>
To: Leah Butler/R9/USEPA/US@EPA
Date: 07/28/2009 04:18 PM
Subject: RE: EPA correspondence

Dear Leah:

I am in receipt of your letter dated 7/28/2009.
Today I have informed Kuhles Capital, LLC we will not be renewing our lease,
which expires Oct. 31 2009.
I look forward to meeting you during the week of August 17.
When we receive the questionnaire we will reply promptly.

Regards,
Joe Fahey
Minex, LLC

-----Original Message-----
From: Butler.Leah@epamail.epa.gov [mailto:Butler.Leah@epamail.epa.gov]
Sent: Tuesday, July 28, 2009 10:43 AM
To: Joseph Fahey
Subject: EPA correspondence

Mr. Fahey -

Attached is a letter that you should receive in the mail shortly. This
letter reiterates what we discussed over the phone in regards to the need
for Minex to conduct it's operations in controlled and monitored manner.

Later this week, or perhaps next week, you will receive another letter from
EPA that contains a questionnaire. The questionnaire is a standard process
by which EPA gathers information from current and past owners and operators
at Superfund Sites and from other individuals that may have useful
information. Your responses to this questionnaire, in combination with the
August site visit, will greatly assist me in understanding Minex's
operations. Please do not hesitate to call if you have questions about
either letter.

Regards,

Leah Butler
EPA Region 9

(K-231)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Joseph P. Fahey, President
Minex LLC
P.O. Box 279
Humboldt, AZ 86329

July 28, 2009

Re: Iron King Mine-Humboldt Smelter Superfund Site
Dewey-Humboldt, AZ

Dear Mr. Fahey:

The purpose of this letter is to inform you about EPA's activities at the Iron King Mine and Humboldt Smelter Superfund Site ("Site") in Dewey-Humboldt, Arizona and to make you aware of the potential Superfund liability implications for your company. As a current operator on real Site property, it is important that Minex, LLC fully understand EPA's involvement at the Site and the potential implications for Minex.

The Site encompasses areas of contamination from two separate facilities: the Iron King Mine facility and the Humboldt Smelter facility. Historic mining and smelting activities in addition to more recent operations have contaminated soil, sediments, surface water and groundwater on-site and in the surrounding area with arsenic, lead, and other metals. The on-site tailings and ash materials have significantly elevated levels of arsenic, lead, and other heavy metals at concentrations that are harmful to human health and the environment. In September 2008, the Site was formally placed on the EPA's National Priorities List (or Superfund List).

In June 2008, EPA began the first step of the Superfund clean up process, the Remedial Investigation/Feasibility Study (RI/FS). The primary objectives of the RI/FS are to determine the nature and extent of contamination and to gather sufficient information so that EPA can select a remedy that eliminates, reduces, or controls risks to human health and the environment. The RI/FS involves the investigation and study of airborne particulates, groundwater, surface water, surface soils, subsurface soils, and sediment samples. EPA is currently conducting the RI and will start the FS in fall/winter 2009. For purposes of this investigation, the EPA has divided the Site into areas of interest. As you can see from the attached map, this investigation includes property you are currently leasing.

Under Section 106(a) and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), commonly known as "Superfund", Potentially

Responsible Parties ("PRPs") may be required to perform cleanup actions to protect human health, welfare, or the environment. PRPs may also be responsible for all costs incurred by EPA in responding to releases at the Site. PRPs include current and former owners and operators of facilities at which hazardous substances were disposed of, persons who arranged for the disposal of hazardous substances at a facility, and persons who accepted hazardous substances for transport to a facility.

EPA understands that, in 2008, Minex transported 700-800 tons of mill tailings and/or ore from the Ambrosia Mill site near Aguila, AZ to leased property on private land within the Site. In June 2009, EPA received a National Environmental Policy Act Environmental Assessment (EA) from the Bureau of Land Management that describes an expanded operation in which Minex would transport approximately 150,000 tons of the mill tailings and/or ore, over a 13-year period, from the Ambrosia Mill site to the leased property. EPA understands that Minex's operation on the leased property entails cleaning, crushing, screening, bagging, and shipping the mill tailings and/or ore.

While EPA has not reviewed comprehensive data on the Ambrosia Mill stockpile or the final processed materials, X-Ray Fluorescence sampling by BLM found arsenic and manganese levels in the stockpile to be significantly above the Arizona non-residential Soil Remediation Levels. Should Minex proceed with the proposed operation, as a foremost priority, Minex should take appropriate measures to prevent releases from the company's operation at all times. Minex may be held liable for causing or contributing to releases of hazardous substances from Minex's past, current, or future operations at the Site. Exacerbating contamination at the Site may subject Minex to environmental liabilities under Superfund Law.

I am looking forward to meeting you in person the week of August 17th to learn more about Minex's operation and observe the processing equipment, operation layout, and any control measures in place to guard against releases of hazardous substances. In the meantime, we will send you a questionnaire in the mail that will help us understand Minex's operation in more detail. I appreciate your cooperation with providing this information.

If you have any questions, please feel free to contact me at (415) 972-3199 or send an e-mail to butler.leah@epa.gov. For legal questions, please contact Michele Benson at (415) 972-3918 or send an email to benson.michele@epa.gov.

Sincerely,



Leah Butler
Superfund Division
EPA Region 9

Enclosure: Iron King Mine and Humboldt Smelter Map

cc: Brian Stonebrink, ADEQ
Michael Rice, BLM